

Personnel Complaint Procedure

PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

PERSONNEL COMPLAINTS DEFINED

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

Personnel Complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor of rank greater than the accused employee. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy.

Formal - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Investigation Division depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Investigation Division, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public lobby.

SOURCE OF COMPLAINTS

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.

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- (c) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, electronically, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- (b) When an uninvolved supervisor or the Watch Commander determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of department policy or procedure, a complaint need not be taken.
- (c) When the complainant is intoxicated or otherwise incapacitated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form.
- (d) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

COMPLAINT DOCUMENTATION

Formal complaints of alleged misconduct shall be documented in writing by a sworn affidavit by the person making the complaint. (50 ILCS 725/3.8 (b)). If the Department provides a particular form for this purpose this is the preferred method of submitting a complaint however no complaint should be declined because it is not written on the Department form. The supervisor accepting the complaint shall report and document the receipt of the complaint and shall ensure that the nature of the complaint is defined as clearly as possible.

A supervisor may elect to document informal complaints as a supervisor or Watch Commander log entry.

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement. If the Department form for this purpose is not used, the receiving supervisor shall ensure that the document includes a sworn affidavit as required by 50 ILCS 725/3.8 (b). The complainant should be provided with a copy of his or her own original complaint.

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Should the sworn affidavit be found to contain knowingly false material information, the matter shall be brought to the attention of the appropriate State's Attorney for determination of prosecution (50 ILCS 725/3.8 (b)).

SUPERVISOR RESPONSIBILITY

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the Watch Commander, Commanding Officer and Chief of Police are notified as soon as practicable
- (b) A supervisor receiving or initiating any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible. The original complaint form will then be directed to the Commanding Officer of the accused employee, via the chain of command, who will take appropriate action or forward the complaint to the Investigation Division for further action
 - 1. During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses.
 - 2. Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken.
 - 3. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the employee's Division Commander or the Chief of Police who will initiate appropriate action.
- (c) A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to the Uniform Peace Officers' Disciplinary Act (50 ILCS 725/1 et seq.), if applicable as well as any other requirements contained in applicable personnel rules and/or collective bargaining agreements.
- (d) When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Chief of Police for direction regarding their role in investigation and/or addressing the complaint.

ASSIGNMENT TO ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or

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the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

1020.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (d) An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) It shall be the responsibility of the assigning supervisor to promptly notify the employee's Division Commander and the Chief of Police.
- (f) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned.

ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or assigned detective shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency or County State's Attorney. Department employees shall cooperate fully with any outside agency's investigation.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal investigation.

No information or evidence administratively coerced from an employee may be used against the employee in a criminal investigation.

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ADMINISTRATIVE INTERROGATION OF COMPLAINT

Whether conducted by a supervisor or an assigned member of the Investigation Division, the following procedures shall be followed with regard to the accused employees:

- (a) The interrogation shall take place at the facility to which the investigating officer is assigned, or at the precinct or police facility which has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer (50 ILCS 725/3.1).
- (b) No officer shall be subjected to interrogation without first being informed in writing of the nature of the investigation. If an administrative proceeding is instituted, the officer shall be informed beforehand of the names of all complainants. The information shall be sufficient as to reasonably apprise the officer of the nature of the investigation (50 ILCS 725/3.2).
- (c) All interrogations shall be conducted at a reasonable time of day. Whenever the nature of the alleged incident and operational requirements permit, interrogations shall be conducted during the time when the officer is on duty (50 ILCS 725/3.3).
- (d) The officer under investigation shall be informed in writing of the name, rank and unit or command of the officer in charge of the investigation, the interrogators, and all persons who will be present on the behalf of the employer during any interrogation except at a public administrative proceeding. The officer under investigation shall inform the employer of any person who will be present on his or her behalf during any interrogation except at a public administrative hearing (50 ILCS 725/3.4).
- (e) Interrogation sessions shall be of reasonable duration and shall permit the officer interrogated reasonable periods for rest and personal necessities (50 ILCS 725/3.5).
- (f) The officer being interrogated shall not be subjected to professional or personal abuse, including offensive language (50 ILCS 725/3.6).
- (g) A complete record of any interrogation shall be made, and a complete transcript or copy shall be made available to the officer under investigation without charge and without undue delay. Such record may be electronically recorded (50 ILCS 725/3.7).
- (h) No officer shall be interrogated without first being advised in writing that admissions made in the course of the interrogation may be used as evidence of misconduct or as the basis for charges seeking suspension, removal, or discharge; and without first being advised in writing that he/she has the right to counsel of his or her choosing who may be present to advise him or her at any stage of any interrogation (50 ILCS 725/3.8).
- (i) The officer under investigation shall have the right to be represented by counsel of his/her choosing and may request counsel at any time before or during interrogation. When such request for counsel is made, no interrogation shall proceed until reasonable time and opportunity are provided the officer to obtain counsel. If a collective bargaining agreement requires the presence of a representative of the collective bargaining unit during investigations, such representative shall be present during the interrogation, unless this

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requirement is waived by the officer being interrogated (50 ILCS 725/3.9). However, in order to maintain the integrity of each individual employee's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

- (j) Admissions or confessions obtained during the course of any interrogation not conducted in accordance with the Uniform Peace Officers' Disciplinary Act may not be utilized in any subsequent disciplinary proceeding against the officer (50 ILCS 725/3.10).
- (k) In the course of any interrogation no officer shall be required to submit to a polygraph test, or any other test questioning by means of any chemical substance, except with the officer's express written consent. Refusal to submit to such tests shall not result in any disciplinary action nor shall such refusal be made part of his/her record (50 ILCS 725/3.11).
- (l) The rights of officer in disciplinary procedures set forth shall not diminish the rights and privileges of officer that are guaranteed to all citizens by the Constitution and laws of the United States and of the State of Illinois (50 ILCS 725/4).
- (m) These provisions do not apply to any officer charged with violating any provisions of the Criminal Code of 2012, or any other federal, state or local criminal law (50 ILCS 725/5).
- (n) These provisions apply only to the extent there is no collective bargaining agreement currently in effect dealing with the subject matter of these provisions (50 ILCS 725/6).
- (o) No officer shall be discharged, disciplined, demoted, denied promotion or seniority, transferred, reassigned or otherwise discriminated against in regard to his or her employment, or be threatened with any such treatment as retaliation for or by reason of his or her exercise of the rights granted by the Uniform Peace Officers' Disciplinary Act (50 ILCS 725/7).

ADMINISTRATIVE SEARCHES

Any employee may be compelled to disclose personal financial information pursuant to proper legal process; if such information tends to indicate a conflict of interest with official duties, or, if the employee is assigned to or being considered for a special assignment with a potential for corruption.

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers, storage spaces and all other departmentally assigned areas (e.g., desks, office space, and assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

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ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

Summary Of Allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Not Sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation within a reasonable period following receipt. If the nature of the allegations dictate that confidentiality

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is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged.

If the complaining party is charged with a criminal offense associated with this investigation, then the investigation may be suspended until the completion of the criminal proceedings.

Upon completion, the report should be forwarded through the chain of command to the commanding officer of the involved employee(s) and to the Chief of Police.

Once received, the Chief of Police may accept or modify the classification and recommendation for disciplinary action contained in the report.

Within 30 days of the final review by the Chief of Police, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint.

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief of Police to discuss the matter further. The Chief of Police is not obligated to re-investigate the complaint simply due to the dissatisfaction of the complaining party.

1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential personnel files. The contents of such files shall not be revealed to anyone other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations.

Unless otherwise limited, all formal personnel complaints shall be maintained for a period of no less than five years. All non-citizen (e.g., those that originate internally) initiated complaints shall be maintained no less than two years.

Sustained complaints shall be maintained in the employee's personnel file. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Investigation Division apart from the employee's personnel file.